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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,405	05/24/2001	Khanh Phi Van Doan	169.2061	9187

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FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

WANG, JIN CHENG

ART UNIT	PAPER NUMBER
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2628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.		Applicant(s)	
	09/863,405		VAN DOAN ET AL.	
	Examiner		Art Unit	
	Jin-Cheng Wang		2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 20-25, 31, 33-37, 40, 42-50, 65-72, 78, 97-107, 114 and 116 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 20-25, 31, 33-37, 40, 42-50, 65-72, 78, 97-107, 114 and 116 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/21/2007 has been entered. Claims 1, 20, 33, 65, 97, and 114 have been amended. Claims 11-19, 26-30, 32, 38-39, 41, 51-64, 73-77, 79-96, 108-113, and 115 have been canceled. Claims 1-10, 20-25, 31, 33-37, 40, 42-50, 65-72, 78, 97-107, 114 and 116 are pending in the present application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10, 20-25, 31, 33-37, 40, 42-50, 65-72, 78, 97-107, 114 and 116 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 31, 78 and 116:

Claim 31 recites "a computer-readable medium encoded with a computer-readable instructions". According to applicant's specification, lines 15-24 in Page 83, "computer-readable medium including...a radio or infra-red transmission channel...the

Internet and Intranets including email transmissions and information recorded on websites and the like". Thus, the claimed computer-readable medium embodies radio signal or email transmissions and thus such a computer-readable medium encoded with computer readable instructions is nothing but a software program. Computer program per se is neither computer components nor statutory process. Thus, claim 31 is non-statutory for this reason.

Additionally, since claim 31 includes a 101 judicial exception, claim 31 must be for a practical application of the judicial exception. As is, claim 31 failed to recite either a physical transformation or produces a useful and tangible result. Thus, claim 31 is also non-statutory for this reason.

Claims 78 and 116 are non-statutory for the same reasons discussed above.

Claims 1-10, 33-37, 40, 42-50, and 97-107:

Claim 1 applies a computer program as part of a seemingly patentable process, however, claim 1 in reality seeks patent protection for the computer program as evidenced by the applicant's specification at lines 15-24 in Page 83 and the claim 31 in the abstract. Computer program per se is neither computer components nor statutory process. Thus, claim 1 is non-statutory.

Additionally, since claim 1 includes a 101 judicial exception, claim 1 must be for a practical application of the judicial exception. As is, claim 1 failed to recite either a physical transformation or produces a useful and tangible result. Thus, claim 1 is also non-statutory for this reason.

The claims 2-10 depend upon the claim 1 and are rejected due to their dependency on the claim 1.

The claim 33 is subject to the same rationale of rejection set forth in the claim 1.

The claims 34-37, 40, 42-50 depend upon the claim 33 and are rejected due to their dependency on the claim 33.

The claim 97 is subject to the same rationale of rejection set forth in the claim 1.

The claims 98-107 depend upon the claim 97 and are rejected due to their dependency on the claim 97.

Claims 20-25, 65-72, and 114:

Claim 20 applies a computer program as part of a seemingly patentable apparatus, however, claim 20 in reality seeks patent protection for the computer program as evidenced by the applicant's specification at lines 15-24 in Page 83 and the claim 31 in the abstract. Computer program per se is neither computer components nor statutory process. Thus, claim 20 is non-statutory.

Additionally, since claim 20 includes a 101 judicial exception, claim 20 must be for a practical application of the judicial exception. As is, claim 20 failed to recite either a physical transformation or produces a useful and tangible result. Thus, claim 20 is also non-statutory for this reason.

The claims 21-25 depend upon the claim 20 and are rejected due to their dependency on the claim 20.

The claim 65 is subject to the same rationale of rejection set forth in the claim 20.

The claims 66-72 depend upon the claim 65 and are rejected due to their dependency on the claim 65.

The claim 114 is subject to the same rationale of rejection set forth in the claim 65.

Allowable Subject Matter

Claims 1-10, 20-25, 31, 33-37, 40, 42-50, 65-72, 78, 97-107, 114 and 116 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101 set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 1-10, 20-25, 31, 33-37, 40, 42-50, 65-72, 78, 97-107, 114 and 116:

The prior art of record fails to teach or suggest the opacity region representation and the obscurrence region representation are associated with the same leaf node.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jin-Cheng Wang whose telephone number is (571) 272-7665. The examiner can normally be reached on 8:00 - 6:30 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jcw

